

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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ELECTRONICALLY FILED
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DATE FILED: 2/3/12

ANTHONY PERKINS,

11 Civ. 3855 (JGK)

Petitioner,

- against -

MEMORANDUM OPINION
AND ORDER

THOMAS LAVALLEY,

Respondent.

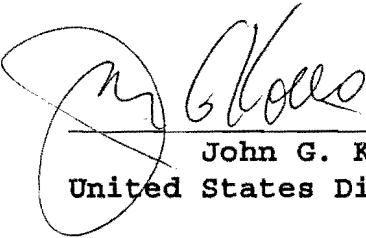
JOHN G. KOELTL, District Judge:

The Court has received the attached pro se petitioner's application to stay his petition for habeas corpus pursuant to Rhines v. Weber, 544 U.S. 269, 277-78 (2005), so that he may exhaust his state court claims.

The respondent should respond to this application by February 15, 2012.

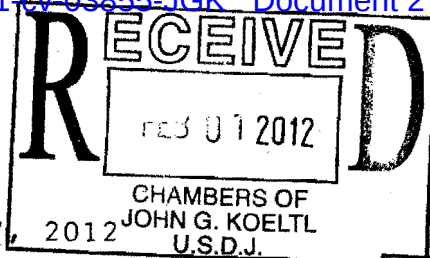
SO ORDERED.

Dated: New York, New York
February 1, 2012



John G. Koeltl
United States District Judge

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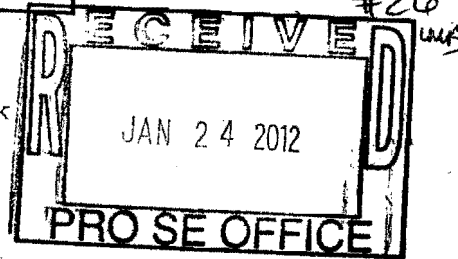


SCANNED

January 17, 2012

United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Attn: Pro Se Clerk



Re: Perkins v. LaValley
11-Civ.-3855 (JGK)

Dear Pro Se Clerk:

I am submitting this letter in compliance with this Court's instructions to apprise the Court of those issues being raised in my application in state court proceedings.

The following claims are raised:

I

MATERIAL EVDIENCE ADDUCED BY THE PEOPLE AT A TRIAL RESULTING IN THE JUDGMENT WAS PROCURED IN VIOLATION OF THE DEFENDANT'S RIGHTS UNDER THE CONSTITUTION OF THIS STATE OR OF THE UNITED STATE, WHERE

a) the prosecutor knowingly allowed Detective Nieves to testify that he was unaware of what Dorn Henderson was arrested for when prosecutor knew or should have known that this statement was false;

b) the prosecutor intentionally withheld exculpatory material that contradicted testimony of several key prosecution witnesses, which denied defendant of his due process right to a fair trial. Brady v. Maryland, 373 U.S. 83 (1963); and

II

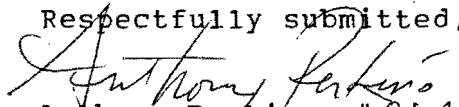
THE JUDGMENT WAS OBTAINED IN VIOLATION OF THE DEFENDANT'S RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED UNDER THE CONSTITUTION OF THIS STATE AND THE SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION, WHERE

a) Counsel's failure to investigate the claims of Dorn Henderson that he had received calls from the defendant on stolen cellphones, deprived the defendant of his due process right to a fair trial.

The petitioner seeks a Stay and Abeyance pursuant to Rhines v. Weber, 544 U.S. 269 (2005), so that he can amend his application for habeas relief, pursuant to Rule 15 (b) of the Federal Rules of Civil Procedure to include these unexhausted claims.

Therefore, I respectfully pray that this Court grant Stay and Abeyance pending disposition of state court proceedings, and leave to amend petition for habeas relief pursuant to Rule 15 (b) of the Federal Rules of Civil Procedure.

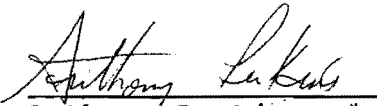
Respectfully submitted,


Anthony Perkins, #0842935
Petitioner (Pro Se)
Clinton Correctional Facility
Box 2001
Dannemora, New York 12929

To: Eric T. Schneiderman
Attorney General
State of New York
120 Broadway, 12th Floor
New York, N.Y. 10271

c/o Priscilla Steward
Assist. Attorney General

I, Anthony Perkins, declares under the penalty of perjury pursuant to 42 U.S.C., Section 1746 that the foregoing is true and correct.


Anthony Perkins, #0842935